IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1914 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

YATIN N OZA

Versus

STATE OF GUJARAT

Appearance:
Mr.P.M.Thakkar, senior counsel with
MR RJ OZA for Petitioner
Mr.S.N.Shelat, learned Addl. Advocate General with
Mr.A.D.Oza, learned G.P. for the respondent No.1.
Mr.B.B.Naik has appeared on behalf of respondents
Nos.2 to 4.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 05/05/2000

ORAL JUDGEMENT

1. Heard learned counsel.

2. Petitioner herein claiming to be a leading

advocate practicing as senior advocate in the High Court of Gujarat and President of the Gujarat High Court Bar Association, a social worker and an elected Member of the Legislative Assembly from Sabarmati Constituency in the city of Ahmedabad has filed the present petition with the prayers as under:-

"(a) Your Lordships be pleased to issue a writ of mandamus or any other appropriate writ, direction or order directing the respondent, its agents, servants and subordinate officers to take decision on the report submitted by Shri Madhukar Dhruv, Retired Judge,Commission for Wadaj area incident, and further be pleased to direct them to produce the said decision on record of this Hon'ble Court within the time stipulated by this Hon'ble Court;

(b) Your Lordships be pleased to direct the respondent, its agents, servants and subordinate officers to take immediate ancillary action on the finding given by Shri Madhukar Dhruv, Retired Judge, Commission for Wadaj area incident and further be pleased to direct them to initiate appropriate proceedings with the persons found to be responsible as per finding of the said Commission."

3. It appears from the pleadings that on 2.7.98 an untoward and unfortunate incident took place in the Nava Wadaj area in the city of Ahmedabad near New Vidyavihar Girls School. There was a fees hike in the private schools. Against this fees hike in the private schools by the respective managements, an agitation was launched and as a part of this agitation about 300 parents including 150 ladies had assembled in the said School for negotiation. The matter was not settled between the management and the group agitated against the fees hike and the incident took a violent turn as a result of which stone pelting took place and Police Inspector Shri K.D.Jadav sustained serious injuries and was taken to V.S.Hospital where he succumbed to the injuries and died. In order to disperse the violent mob, there was lathi charge by the police and use of tear gas shells. The petitioner says that when he was informed about the use of tear gas and lathi charge, as above, he rushed to the spot and when he reached the place, he came to know about the injuries sustained by Shri Jadav, senior police inspector and that he had already been admitted to the Hospital. The petitioner says that after taking stock of the situation and appealing to the people of the area to be calm, he left this area. At 4.0 P.M. on the same day

he again received a message that the police force had surrounded complete Wadaj area and a wave of fear was spread by the police force and Dr.Vinitbhai Patel and other innocent persons were wrongly arrested by police officers. The petitioner again rushed to the spot and found that the area was flooded by the police force as also S.R.P. force who were making flag march and beating the civilians, who were found in the area, the flag march was being carried out by Shri P.K.Jha, Shri Atul Karval and Shri Satish Verma, senior I.P.S. Officers. It is the case of the petitioner that he approached police officers and requested them that they had arrested respectable persons of the area, who were not involved in any illegal activity. The petitioner goes on to say that Shri Jha was highly excited and threatened the petitioner to go away from the place. The petitioner has levelled serious allegations against these officers in the petition.

4. While issuing rule on 27.3.2000 the notice of rule was also issued to these three Police Officers and these three Officers were also arrayed as respondents on 27.3.2000 itself. A detailed affidavit in reply dt.15.4.2000 alongwith certain documents controverting the petitioner's allegations and traversing the claim of the petitioner has been filed by Shri Satish C.Verma, at present District Superintendent of Police, Jamanagar i.e. respondent No.3 herein. On behalf of respondent No.1 State of Gujarat an affidavit in reply dt.17.4.2000 has been filed under the signatures of one Shri J.R. Rajput, Under Secretary, Home Department, Government of Gujarat. An affidavit in rejoinder dt.2.5.2000 thereto has been filed by the petitioner.

5 While the allegations levelled against the Police Officers have been controverted through the affidavit of respondent No.3 and respondent No.1 has also denied the allegations generally-- it has been stated in para 4 of the reply that the conduct of the petitioner himself was such that a complaint was required to be filed against the petitioner under Sections 143, 186, 187 and 188 of the I.P.C. and under Sections 110 and 117 of the Bombay Police Act and the F.I.R. was lodged at Naranpura Police station being No.398/98. It has been stated that the petitioner made an attempt to prevent the Police Officers from maintaining law and order and that he had threatened the police officers for the release of persons including Dr. Vinitbhai Patel. The petitioner's claim that he had acted in the manner to help the police officers to control the violent mob has also been denied. It has also been submitted in this reply that while a complaint

at Crime Register No.398/98 at Naranpura Police Station was registered against the petitioner and as the petitioner was admitted in one private hospital of Dr.Yogendra Modi, the Assistant Commissioner of Police Shri K.C.Bava visited him and at that time a complaint was made by the petitioner to the Assistant Commissioner of Police and the same was recorded and registered with the Naranpura Police Station at Crime Register No.399/98. It has been then stated that the Government appointed Hon'ble Shri Madhurkar Dhruv, retired City Civil & Sessions Judge to inquire the incident which took place on 2.7.98 in which Police Inspector Shri K.D.Jadav died due to the injuries caused in the said incident. A copy of the Notification dt.9.7.98 has been enclosed and it has been stated that as per this Notification, the inquiry was to be completed within three months but the same was extended as per the request made by Shri Madhurkar Dhruv. Shri Dhruv submitted his report to the State Government on 26.2.99 and that the said report and supporting documents remained under process with the Under Secretary (Law and Order) and thereafter the file was submitted to the Deputy Secretary (Law and Order), Home Department. Subsequently the said file was placed by Deputy Secretary (Law and Order), Home Department before Addl. Chief Secretary (Home) on 14.6.99, who in turn submitted the said file to the Hon'ble Minister of State (Home) on the very same day i.e. 14.6.99 alongwith his views. It has been further stated that this report had been sent to the Principal Secretary (Personnel), General Administration Department on 3.4.2000 for advice by the Hon'ble Minister of State (Home). It is stated in no uncertain terms in this reply that the said report is under active consideration of the State Government. Whereas the original report was under consideration of the State Government, it has been decided to consider the petitioner's request for giving a copy of the report after the Government takes a final decision on this report.It has also been stated that at present Home Department's file alongwith the report of Shri Madhurkar Dhruv is with the Principal Secretary (Personnel), General Administration Department and the advice of the said authority is awaited and on receipt of the same from the General Administration Department, the State Government shall expeditiously take decision on the findings of the report and take further appropriate action. It has been submitted by learned Addl. Advocate General that the inquiry was ordered only for the purpose of holding a preliminary inquiry to find the facts, which led to the incident and it is not an inquiry under the Commission of Inquiries Act.

6. During the course of arguments, learned Addl. Advocate General Shri S.N.Shelat has made a candid statement that the Government shall take the final decision on this report within a period of three months from the date the certified copy of this order is produced before the Chief Secretary of the State of Gujarat.

7. In view of the statement made by the learned Addl. Advocate General, as above, this Court finds that no further orders are necessary in this case. This Special Civil Application is accordingly disposed of without entering into any of the merits of the case. Rule is hereby discharged. No order as to costs. Direct service is permitted.

(M.R.Calla,J)